

SENATE BILL 7001  
By Williams

AN ACT to amend Tennessee Code Annotated, Title 2;  
Title 3; Title 4; Title 8 and Section 39-16-103, to  
enact the "Comprehensive Governmental Ethics  
Reform Act of 2006".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Comprehensive  
Governmental Ethics Reform Act of 2006".

SECTION 2. Tennessee Code Annotated, Section 2-10-105, is amended by deleting the  
section in its entirety and by substituting instead the following new section:

**§ 2-10-105.**

(a) Each candidate for state public office and political campaign committee in a  
state election shall file with the registry of election finance a statement of all contributions  
received and all expenditures made by or on behalf of such candidate or such  
committee. The statement of each candidate for state public office shall include the date  
of the receipt of each contribution and the statement of a political campaign committee in  
a state election shall include the date of each expenditure which is a contribution to a  
candidate in any election.

(b) Each candidate for local public office and political campaign committee for a  
local election shall file with each county election commission of the county where the  
election is held a statement of all contributions received and all expenditures made by or  
on behalf of such candidate or such committee. The statement of each candidate for  
local public office shall include the date of the receipt of each contribution and the

statement of a political campaign committee for a local election shall include the date of each expenditure which is a contribution to a candidate in any election.

(c)

(1) The statements required by subsections (a) and (b) of each candidate, each single candidate political campaign committee, single measure political campaign or multicandidate political campaign committee shall be filed quarterly during an election year, no later than the tenth day of January, April, July and October respectively. Such candidate and political campaign committees shall also be required to file a pre-primary statement and pre-general statement. The pre-primary statement shall cover the period from the last day included in the July quarterly statement through the tenth day before the primary election. Such pre-primary statement is due seven (7) days before the primary election. The pre-general statement shall cover the period from the last day included in the October quarterly statement through the tenth day before the general election. Such pre-general statement is due seven (7) days before the general election;

(2) Statements for any runoff election, from the last day included in any prior report through the tenth day before any such election shall be filed not later than seven (7) days before the election;

(3) Any candidate or political campaign committee filing a statement pursuant to subsection (e) before January 1 of the year in which the candidate or committee expects to be involved in an election shall file reports with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), by January 31 and July 15 immediately succeeding the filing, and semi-annually thereafter until the year of the election. If January 31 or

July 15 falls on a Saturday, a Sunday, or a legal holiday, the provisions of § 1-3-102 shall apply. The ending date of the January 31 reporting period is December 31. The ending date of the July 15 reporting period is June 30. A semi-annual report is not required to be made if the reporting date is within sixty (60) days of a report otherwise required by this part.

(4) Each statement required by subsections (a) and (b) shall include transactions occurring since the preceding statement.

(d) Each multicandidate political campaign committee shall file reports according to subsection (c)(1). Each report shall include transactions occurring since the preceding report. Such reports shall be made available on the Internet as soon as practicable once such multicandidate political campaign committee has filed such information and the registry has reviewed such statements for accuracy and timeliness. If a multicandidate political campaign committee has not timely filed a quarterly report, then the registry shall post on the Internet that the multicandidate political campaign committee is delinquent.

(e)

(1) Each candidate and each political campaign committee shall certify the name and address of the candidate's or committee's political treasurer to the registry of election finance or the county election commission, where appropriate, before the candidate or committee may receive a contribution or make an expenditure in a state or local election. A state public officeholder shall also certify the name and address of such officeholder's political treasurer to the registry of election finance before the officeholder or the officeholder's political committee may accept a contribution to defray the expenses incurred in connection with the performance of the officeholder's duties or responsibilities,

and a local officeholder shall so certify the name and address of such officeholder's treasurer to the appropriate county election commission. A candidate may serve as that candidate's own political treasurer. A candidate or political campaign committee shall notify the registry of election finance or county election commission of any changes in the office of its political treasurer. Any such statements filed pursuant to this part shall be cosigned by the candidate, if such candidate appoints a political treasurer other than the candidate.

(2) In addition to the requirements in subdivision (1), a multicandidate political campaign committee shall also certify the name and address of all officers of such committee to the registry of election finance. A multicandidate political campaign committee is required to have at least one (1) officer, not including the treasurer of such committee.

(f) All records used by the candidate or political campaign committee to complete a statement required by this part shall be retained by the candidate or political campaign committee for at least two (2) years after the date of the election to which the records refer or the date of the statement, whichever is later. After the two-year period the candidate or political campaign committee is authorized to destroy such records absent any pending investigation by the registry of election finance or any other law enforcement agency or absent any administrative or court proceeding. Once an investigation is closed by the registry of election finance, records may be destroyed upon a petition for approval to the registry of election finance.

(g) Separate reporting shall be required for both primary elections and general elections. Cumulative reporting for both primary and general elections for the same office in the same year is expressly prohibited. An appointment of a political treasurer pursuant to subsection (e) may be cumulative, and one (1) such appointment shall be

sufficient for both a primary and general election for the same office in the same year. A successful primary candidate shall not be required to certify a political treasurer for the general election if the candidate had previously certified such political treasurer prior to the primary election.

(h) During the period beginning at twelve o'clock (12:00) midnight of the tenth day prior to a primary, general, runoff or special election or a referendum and extending through twelve o'clock (12:00) midnight of such election or referendum day, each candidate or political campaign committee shall by telegram, facsimile machine, hand delivery or overnight mail delivery file a report with the registry of election finance or the county election commission, whichever is required by subsections (a) and (b) of:

(1)

(A) The full name and address of each person from whom the candidate or committee has received and accepted a contribution, loan or transfer of funds during such period and the date of the receipt of each contribution in excess of the following amounts: a committee participating in the election of a candidate for any state public office, five thousand dollars (\$5,000); or, a committee participating in the election of a candidate for any local public office, two thousand five hundred dollars (\$2,500). If the committee is participating in the election of candidates for offices with different reporting amounts, the amount shall be the lowest for any candidate in whose election the committee is participating or in which any committee is participating to which it makes or from which it receives a transfer of funds; and

(B) Such report shall include the amount and date of each such contribution or loan reported, and a brief description and valuation of each

in-kind contribution. If a loan is reported, the report shall contain the name and address of the lender, of the recipient of the proceeds of the loan, and of any person who makes any type of security agreement binding such person or such person's property, directly or indirectly, for the repayment of all or any part of the loan.

(2) Each report required by this subsection (h) shall be filed within twenty-four (24) hours after the time the contribution or loan is received. If such time falls other than during regular working hours, the report shall be filed after the opening of the office of the registry of election finance or the county election commission, whichever is required by subsections (a) and (b), on the next working day after the time at which the report is otherwise due.

(3) The registry shall develop appropriate forms for the report required by this subsection (h) and make such forms available to the candidates and the county election commissions.

(i) Any state or local political party or caucus of such political party established by members of either house of the general assembly that controls or operates one (1) or more political campaign committees shall report all receipts and disbursements by the party in the same manner and at the same time that it reports contributions and expenditures by the party's political campaign committee.

(j) Reports filed under this section shall not be cumulative, except as provided in subsection (g) regarding appointment of a political treasurer. Each report shall reflect the total for its own reporting period.

(k) "Date of the receipt", as used in this section, means the date when the contribution was received by the candidate, candidate's committee, or treasurer.

SECTION 3. Tennessee Code Annotated, Section 2-10-106, is amended by deleting subsection (a) in its entirety and substituting instead the following:

(a) If the final statement of a candidate shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry of election finance or the county election commission, whichever is required by § 2-10-105(a) and (b), a supplemental semi-annual statement of contributions and expenditures. Beginning after filing the first quarterly report due after an election, subsequent supplemental statements shall be filed on an semi-annual basis by candidates until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. A candidate may close out a campaign account by transferring any remaining funds to any campaign fund subject to the requirements of this part and commence semi-annual filing as provided by this part.

SECTION 4. Tennessee Code Annotated, Section 2-10-107, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-107.**

(a) A statement filed under § 2-10-105 or § 2-10-106 shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to § 2-10-106 shall indicate whether an unexpended balance of contributions, continuing debts and obligations or an expenditure deficit exists; or

(2)

(A) A statement setting forth under contributions, a list of all the contributions received including the full name, complete address, occupation, and employer of each person who contributed a total amount

of more than one hundred dollars (\$100) during the period for which the statement is submitted, and the amount contributed by that person. The statement of each candidate shall include the date of the receipt of each contribution and the statement of a political campaign committee shall include the date of each expenditure which is a contribution to a candidate. "Date of the receipt", as used in this subdivision, means the date when the contribution was received by the candidate, candidate's committee, or treasurer. The statement shall list as a single item the total amount of contributions of one hundred dollars (\$100) or less; and

(B) A statement setting forth under expenditures, a list of all expenditures made including the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose thereof which shall clearly identify that it is an allowable expenditure under § 2-10-114. The words "reimbursement", "credit card purchase", "other" and "campaign expense" shall not be considered acceptable descriptions for "purpose". Any purchase made with a credit card shall also be disclosed as a payment to the vendor providing the item or service. Credit card payments to separate vendors shall be disclosed as separate expenditures. The statement shall list the total amount of expenditures of one hundred dollars (\$100) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(b) When any candidate or political campaign committee desires to close out a campaign account, it may file a statement to such effect at any time; provided, that the



statement shall on its face show no unexpended balance, continuing debts or obligations or deficit.

(c)

(1) When filing a statement under § 2-10-105 or § 2-10-106, a contribution, as defined in § 2-10-102, for which no monetary consideration is paid or promised, hereinafter referred to as an "in-kind contribution", shall be listed separately in the disclosure statement and excluded from the lists of contributions and expenditures. The "in-kind contribution" list shall include:

(A) In-kind contributions of a value of one hundred dollars (\$100) or less may be listed as a single item; and

(B) In-kind contributions of a value of more than one hundred dollars (\$100) during the period for which the statement is submitted, and for each such contribution, the category of the contribution, the name, address, occupation and employer of each person who contributed it.

The statement of each candidate shall include the date of the receipt of each in-kind contribution and the statement of a political campaign committee shall include the date of each expenditure which is an in-kind contribution to a candidate.

(2) Within ninety (90) days of the effective date of this act, by rule promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, the registry of election finance shall enumerate a nonexclusive listing of examples of the various categories of contributions which constitute "in-kind contributions" requiring disclosure. Upon promulgating such rule, the registry shall provide a copy of such rule to each member of the general assembly and each qualified candidate for state office.

(d) An in-kind contribution is deemed to be made and shall be reportable in the period when such contribution is made or performed and not when the cost is billed or paid. The actual cost of the in-kind contribution, if known, shall be reported in the period such contribution is made or performed. If the actual cost of the in-kind contribution is not known, an estimate of the cost shall be reported in the period such contribution is made or performed, and the report shall indicate that the amount reported is estimated. If the actual cost, as indicated on the bill, is different from the amount reported, such amount shall be amended or adjusted on a later report covering the period in which payment is made.

(e) A statement filed under § 2-10-105 or § 2-10-106 shall also list any unexpended balance, any deficit and any continuing financial obligations of the candidate, campaign or committee.

(f) Payments to a person as reimbursement for expenditures made by the person on behalf of the candidate or committee shall be disclosed as payments to the vendor who provided the item or service to the candidate or committee, not the person who is reimbursed.

SECTION 5. Tennessee Code Annotated, Sections 2-10-102(4), 2-10-402, and 2-19-203, are amended by deleting the language “pledge”.

SECTION 6. Tennessee Code Annotated, Section 2-10-110, is amended by deleting the section in its entirety and by substituting instead the following new sections:

**§ 2-10-110.**

(a) The registry of election finance may impose a civil penalty for a violation of this part as provided in this section.

(1) "Class 1 offense" means the late filing of any report or statement required by this part. A Class 1 offense shall be punishable by a civil penalty of

not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750).

(A) For local public offices, the county administrator of elections shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the administrator's discovery that a due report has not been filed. The administrator shall forward a copy of such notice to the registry of election finance. For state public offices, the registry of election finance shall have personally served upon, or send by return receipt requested mail, an assessment letter to any candidate or committee upon the registry or its appropriate staff discovering that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) per day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed or for thirty (30) days, whichever occurs first.

(B) For any Class 1 offense, the registry of election finance through its appropriate staff shall send an assessment letter to a candidate or committee in a form sufficient to advise the candidate or committee of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a candidate or committee for correction, a copy of the original shall be retained on file until the corrected report is returned to the registry of election finance. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(C) To request a waiver, reduction or to in any way contest a Class 1 penalty imposed by the staff of the registry of election finance, a candidate for a state or local public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(2) "Class 2 offense" means failing to file a report required by this part within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of this part. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars (\$10,000) or fifteen percent (15%) of the amount in controversy, if fifteen percent (15%) of the amount in controversy is greater than ten thousand dollars (\$10,000).

(A) For state and local public offices, the registry of election finance may impose a civil penalty for any Class 2 offense.

(B) To request a waiver, reduction or to in any way contest a Class 2 penalty imposed by the registry of election finance, a candidate for a state or local public office shall file a petition with the registry of election finance. Such petition may be considered as a contested case proceeding under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(C) "Amount in controversy" means, as appropriate to the case, the greater of the total expenditures or total contributions either of which or both of which are shown on a late report subsequently filed, or the

amount of an expenditure or contribution which was not reported or was incorrectly reported.

(b) Penalties imposed under this part shall be deposited into the state general fund.

(c)

(1) The registry of election finance shall maintain a register of all civil penalties imposed under this part and remaining unpaid.

(2) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, the candidate owing such civil penalty shall be ineligible to qualify for election to any state or local public office until such penalty and costs are paid.

(3) If a civil penalty authorized by this section is imposed, it shall be considered as a personal judgment against the candidate.

(d) A candidate for state or local public office who fails to file any statement or report required by this part shall be ineligible to qualify for election to any state or local public office until such statement or report is filed with the registry and/or the appropriate county election commission.

(e) It is the intent of the general assembly that the sanctions provided in this section shall be the civil penalties enacted into law by Acts 1989, ch. 585.

(f)

(1) For any civil penalty levied by the registry against a multicandidate political campaign committee under this section or § 2-10-308, the treasurer of such committee is personally liable for such penalty.

(2) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, the multicandidate political campaign committee owing such civil penalty shall be prohibited from receiving contributions and making expenditures to support or oppose candidates and the treasurer and officers of such delinquent multicandidate political campaign committee shall be prohibited from creating another multicandidate political campaign committee until such penalty and all costs attendant thereto are paid in full.

**§ 2-10-111.**

(a) Each county election commission shall notify the state election commission and the registry of election finance of each local election held in such county at the same time that public notice is posted for such election.

(b) Each time that a statement for a candidate for local public office or political campaign committee for a local election is due to be filed with the county election commission under § 2-10-105, the county election commission shall file with the registry of election finance a report certifying that all candidates have filed the report timely or a list of all candidates who have failed to report timely. For each local candidate who is reported to the registry of election finance as filing late, the county election commission shall be required to file, on a form prescribed by the registry, information pertaining to the late filing. The registry shall determine by rule what information from the county election commission shall be necessary.

SECTION 7. Tennessee Code Annotated, Section 2-10-113, is amended by deleting such section in its entirety.

SECTION 8. Tennessee Code Annotated, Section 2-10-114, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-114.**

(a) Any candidate for public office in this state shall allocate an unexpended balance of contributions after the election to one (1) or a combination of the following:

(1) The funds may be retained or transferred to any campaign fund pursuant to Tennessee reporting requirements;

(2) The funds may be returned to any or all of the candidate's contributors in accordance with a formula or plan specified in the candidate's disclosure of the allocation;

(3) The funds may be distributed to the executive committee of the candidate's political party;

(4) The funds may be deposited in the volunteer public education trust fund established under title 49, chapter 3, part 4;

(5) The funds may be distributed to any organization described in 26 U.S.C. §170(c);

(6) The funds may be distributed to an organization which has received a determination of exemption from the United States internal revenue service pursuant to subsection (3) or (4) of 26 U.S.C. §501(c), if such organization is currently operating under such exemption; and

(7) The funds may be used to defray any ordinary and necessary expenses incurred in connection with the office of the officeholder. Such expenses may include, but are not limited to, the cost of advertisements, membership fees, and donations to community causes.

(b)

(1) Except as provided in subsection (a), no candidate for public office shall use any campaign funds for any other purpose other than a contribution or

expenditure as defined by this chapter. The disbursement of campaign funds for a candidate's own personal use is not permitted. For the purpose of this section, "personal use" is defined as any use which the candidate for public office or elected public official would be required to treat the amount of the expenditure as gross income under §61 of the Internal Revenue Code of 1986, 26 U.S.C. §61, or any subsequent corresponding Internal Revenue Code of the United States, as from time to time amended.

(2) Expenditures that are specifically prohibited under this section include, but are not limited to:

(A) Any residential or household items, supplies or expenditures, including mortgage, rent or utility payments for any part of any personal residence of a candidate or officeholder or a member of the candidate's or officeholder's family;

(B) Mortgage, rent, or utility payments for any part of any non-residential property that is owned by a candidate or officeholder or a member of a candidate's or officeholder's family and used for campaign purposes, to the extent the payments exceed the fair market value of the property usage;

(C) Funeral, cremation, or burial expenses related to deaths within a candidate's or officeholder's family;

(D) Clothing, other than items of de minimis value that are used in the campaign;

(E) Tuition payments within a candidate's or officeholder's family other than those associated with training campaign staff or associated with an officeholder's duties;



(F) Dues, fees, or gratuities at a country club, health club, or recreational facility, unless they are part of a specific fundraising event that takes place on the organization's premises;

(G) Salary payments to a member of a candidate's family, unless the family member is providing bona fide services to the campaign. If a family member provides bona fide services to a campaign, any salary payment in excess of the fair market value of the services provided is a prohibited use;

(H) Admission to a sporting event, concert, theater, or other form of entertainment, unless part of a specific campaign or officeholder activity;

(I) Payments for grooming or enhancing one's personal appearance unrelated to campaign activities; or

(J) Payment of any fines, fees, or penalties assessed pursuant to this chapter or title 3, chapter 6.

(3) A violation of this subsection (b) is a Class 2 offense as defined in § 2-10-110(a)(2).

(c) In addition to the manner in which unexpended balances in the campaign account of a candidate may be allocated under the provisions of subsection (a), if an incumbent dies while in office and has an unexpended balance in a campaign account, and if such incumbent's surviving spouse or child is appointed to fill the unexpired term of the deceased incumbent or is elected to the office previously held by the deceased, then the balance remaining in the campaign account of such deceased incumbent shall be transferred to the campaign account of the surviving spouse or child of the deceased

incumbent for use by such surviving spouse or child as a candidate for election to public office in accordance with the provisions of this part.

(d) In the event a candidate for public office dies with an unexpended balance of contributions in such candidate's campaign account and the provisions of subsection (d) are not applicable, then the following individuals in the descending order hereafter established are authorized to allocate such unexpended balance to those persons, political parties, or charitable organizations listed in subdivisions (a)(2)-(6):

(1) The deceased candidate, if such candidate provided for allocation of an unexpended balance through such candidate's will;

(2) The deceased candidate's treasurer, unless the candidate was the treasurer;

(3) The surviving spouse of the deceased candidate, if the candidate was the treasurer; and

(4) The next of kin of the deceased candidate, if the provisions of subdivisions (e)(2) and (3) do not apply.

If a decision is not made by any such individual, or individuals where subdivision (e)(4) applies, within one (1) year of the date of death of the deceased candidate, then the unexpended balance shall be distributed by the registry of election finance to the volunteer public education trust fund established under title 49, chapter 3, part 4.

(e) Notwithstanding the provisions of subsection (a), if a member of the general assembly raises funds for a local public office during the time the general assembly is in session in accordance with § 2-10-310(a), then any unexpended balance of contributions in the campaign account established by such member of the general assembly for such member's candidacy for local public office shall not be used for or distributed to a campaign fund:

- (1) For the benefit of any election for any candidate for the general assembly;
- (2) For the benefit of any statewide election, or any state, national or other political party;
- (3) For the benefit of any state, national or other political party caucus; or
- (4) For the benefit of any state, national or other political party caucus member.

SECTION 9. Tennessee Code Annotated, Section 2-10-121, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-121.** No later than January 31 of each year, each multicandidate political campaign committee registered with the registry of election finance shall pay a registration fee to be determined by the registry of election finance by rule. For any multicandidate political campaign committee registering a new committee during any year, the committee shall pay the appropriate registration fee as designated above at the time that it certifies its political treasurer. All fees collected by the registry of election finance under the provisions of this section shall be retained by the registry and used for expenses related to maintaining an electronic filing system. This section shall not apply to any statewide political party as defined in § 2-1-104(29) or subsidiaries thereof.

SECTION 10. Tennessee Code Annotated, Section 2-10-205, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-205.** The registry has the jurisdiction to administer and enforce the provisions of the following statutes:

- (1) The "Campaign Financial Disclosure Law," compiled in part 1 of this chapter;
- and
- (2) The "Campaign Contribution Limits Law," compiled in part 3 of this chapter.

SECTION 11. Tennessee Code Annotated, Section 2-10-206, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-206.**

(a) The duties of the registry include the following:

(1) Develop prescribed forms for statements that are required to be filed under the above laws with the objective of making the disclosure statements as simple and understandable as possible for both the person filing the disclosure statement and the average citizen of the state of Tennessee;

(2) Develop a filing, coding and cross-indexing system;

(3) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same;

(4) Review all filed statements to ensure compliance with the respective disclosure laws. Statements filed with the registry for more than two (2) years shall be deemed to be sufficient, absent a showing of fraud or the existence of an ongoing investigation related to such statement;

(5) Prepare and publish a manual for all candidates and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting and requirements as to reporting dates and the length of time that candidates and committees are required to keep any records pursuant to the provisions of this part;

(6) Provide an annual report to the governor and the general assembly concerning the administration and enforcement of the disclosure law by January 15 of each year that includes recommendations by the registry or a statement that the registry makes no recommendations;

(7) Investigate any alleged violation upon sworn complaint or upon its own motion. If the registry investigates the records of any selected candidate, it may also investigate the records of all other candidates running for the same position in the same district or other appropriate geographic area;

(8) Preserve all reports or statements for five (5) years from the date of filing absent any pending investigation by the registry of election finance or any other law enforcement agency or absent any administrative or court proceeding;

(9) Notify all candidates for state public office in a state election of the requirements for filing any required disclosure statement fourteen (14) days before any fixed deadline provided for such filing; and

(10) Conduct audits.

(b) The registry shall notify each member of the general assembly by sending notice to the member's home address and the member's legislative office address in Nashville.

SECTION 12. Tennessee Code Annotated, Section 2-10-207, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-207.** The registry of election finance has the following powers:

(1) Promulgate such rules and regulations, pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter;

(2) Hold hearings, conduct audits, subpoena witnesses, administer oaths, and compel production of books, correspondence, papers and other records;

(3) Issue written advisory opinions to candidates concerning compliance with this chapter. A candidate may rely upon such opinion without threat of sanction with

respect to the issue addressed by the opinion if the candidate conforms such candidate's conduct to the requirements of the advisory opinion;

(4) In determining whether an actual violation has occurred, conduct a contested case hearing;

(5) Issue an appropriate order following such a determination;

(6) Assess a late filing fee of twenty-five dollars (\$25.00) per day up to a maximum total penalty of seven hundred fifty dollars (\$750);

(7) Assess a civil penalty for any violation of the disclosure laws as provided by this part. Such civil penalties may be assessed for any violation of the Campaign Financial Disclosure Law, compiled in part 1 of this chapter, and the Campaign Contribution Limits Law, compiled in part 3 of this chapter; provided, that the registry shall only have the power to assess a civil penalty after notice and opportunity for hearing; and

(8) Where the results of its investigation indicate a criminal act may have occurred, the registry shall refer the matter to the appropriate district attorney general for criminal prosecution.

SECTION 13. Tennessee Code Annotated, Section 2-10-211, is amended by deleting the section in its entirety and by substituting instead the following new section:

**§ 2-10-211.**

(a) The registry of election finance, notwithstanding any other provision of the law to the contrary, shall do all of the following:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all candidates for state public office and all political campaign committees that are required to file statements and reports with the registry of election finance;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each candidate and campaign committee with secure access to the electronic filing system. The system shall provide safeguards against efforts to tamper or change the data in any way;

(3) Provide training to candidates and campaign committees on the use of the electronic filing system;

(4) Develop, with the advice, assistance and approval of the office of information resources, a system that will forward a copy of any candidate's report filed electronically with the registry of election finance to the appropriate local county election commission; and

(5) Provide to the public access to a list of campaign contributions made to candidates and a list of expenditures made by those candidates by posting such lists on the Internet. In addition, the registry shall provide assistance to anyone seeking to access this information on the Internet. Beginning with the 2006 regular August election, campaign contribution lists shall be made available on the Internet after such candidate has filed such information and the registry has reviewed such statements for accuracy and timeliness. If a candidate has not timely filed campaign contribution lists, then the registry shall post on the Internet that the candidate's statement is delinquent.

(b) The registry of election finance, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The registry of election finance shall, with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use in the 2004 regular August election and all subsequent state elections. Candidates

for state public offices and campaign committees may commence electronic filing for any state election beginning in the year 2004 and after notice has been given pursuant to subsection (b) and may continue to file electronically all reports for any subsequent state elections. Beginning in July 2006, candidates for state public offices and campaign committees, who have contributions or expenditures in excess of one thousand dollars (\$1,000) per reporting period, shall file electronically all reports for any subsequent state elections. Failure to timely file reports electronically may be penalized as provided in § 2-10-110.

(d) All information entered by any candidate or campaign committee into the electronic filing system shall remain confidential until the information is filed with the registry of election finance.

SECTION 14. Tennessee Code Annotated, Title 2, Chapter 10, is amended by adding the following as a new, appropriately designated section:

**§ 2-10-\_\_\_\_.**

(a) The registry of election finance shall conduct audits and field investigations of reports and statements filed with the registry as follows:

(1) Each gubernatorial candidate and such candidate's committees that receive at least ten percent (10%) of the vote at the general election shall be audited;

(2) Each candidate for the general assembly and such candidate's committees shall be subject to an audit on a random selection of districts in an election by the registry. Districts shall be randomly drawn until a total of approximately ten percent (10%) of all candidates for general assembly have been selected; and



(3) Each candidate for supreme court, court of appeals and criminal court of appeals shall be subject to an audit on a random selection by the registry.

One (1) candidate from the supreme court, court of appeals and criminal court of appeals shall be randomly selected by the registry to be audited each election cycle.

(b)

(1) The registry shall select by lot the districts to be audited on a random basis regarding candidates for the general assembly. The registry shall select by lot the names of candidates to be audited on a random basis for judicial offices.

The selection shall be after the last date for filing the first report or statement following the general election for which the candidate ran or for which the committee donated money. The attorney general and reporter, or the attorney general's designee, shall attend the random selection to preserve the integrity of the proceeding.

(2) No audit or investigation of any candidate or candidate's committee in connection with a report or statement required by this chapter shall begin until after the last date for filing the first report or statement following the general election for the office for which the candidate ran. When the campaign statements or reports of a candidate are audited and investigated, the audit and investigation shall cover all campaign statements and reports filed for the primary and general elections and any previous campaign statement or report filed since the last election for that office, but shall exclude any statements or reports which have previously been audited.

(3) Audits of members of the general assembly shall only take place during June through December during odd-numbered years.

(c) In order to comply with an audit, candidates and campaigns shall retain copies of all checks, bank statements and vendor receipts for two (2) years after the date of the election to which the records refer.

(d) The registry shall adopt auditing guidelines and standards with guidance from the comptroller of the treasury which shall govern audits and field investigations conducted under this section. The guidelines and standards shall be formulated to accomplish the following purposes:

(1) The audits should encourage compliance and detect violations of this chapter;

(2) The audits should be conducted with maximum efficiency in a cost-effective manner; and

(3) The audits should be as unobtrusive as possible, consistent with the foregoing purposes.

In adopting its guidelines and standards the registry shall consider relevant guidelines and standards of the American Institute of Certified Public Accountants to the extent such guidelines and standards are applicable and consistent with the purposes set forth in this section.

(e) The detailed information received pursuant to this section for an audit shall be considered working papers of the registry of election finance and is therefore confidential and not an open record pursuant to Tennessee Code Annotated, title 10, chapter 7.

(f) After the completion and approval of an audit by the registry, the registry shall post any finding that could result in an assessment of significant penalties on the registry's web site, except that audits of candidates defeated in the primary election shall not be made public until after the general election.

(g) Failure to comply with an audit investigation under this section is a Class 2 offense as defined in § 2-10-110.

(h) Notwithstanding the provisions of this section, any candidate running for the office of governor more than one (1) year prior to the general election may elect to do self-audits. Such audits shall be given to the registry and the registry may give the candidate a letter of compliance stating the audit is complete and acceptable.

(i) Notwithstanding the provisions of this section, if any candidate files a contribution statement with more than thirty percent (30%) of such candidate's contributions reported as unitemized contributions and such contributions total more than five thousand dollars (\$5,000), then such candidate shall automatically be audited by the registry.

SECTION 15. Tennessee Code Annotated, Title 2, Chapter 10, is amended by adding the following as a new, appropriately designated section:

**§ 2-10-\_\_\_\_.**

(a)

(1) For the purpose of conducting any hearing or audit as provided in this chapter, the registry has the power to administer oaths, to call any party to testify under oath at such hearings, to require the attendance of witnesses, the production of books, records, and papers, and to take the depositions of witnesses.

(2) For such purposes, the registry is authorized to issue a subpoena for any witness or a subpoena duces tecum to compel the production of any books, records or papers. These subpoenas may be served by registered mail, return receipt requested, to the addressee's business mailing address, or by such personnel of the registry, or shall be directed for service to the sheriff of the

county where such witness resides or is found or where such person in custody of any books, records, or papers resides or is found.

(b) In case of a refusal to obey a subpoena issued to any person under subsection (a), any circuit or chancery court of this state within the jurisdiction in which the person refusing to obey the subpoena is found or resides may issue to such person, upon application by the registry, an order requiring such person to appear before the court to show cause why the person should not be held in contempt for refusal to obey the subpoena. Failure to obey a subpoena may be punished by the court as a contempt of court.

SECTION 16. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following as a new, appropriately designated section:

**§ 2-10-3\_\_.**

(a) No person, political campaign committee or multicandidate political campaign committee shall make cash contributions to any candidate with respect to any election.

(b) No person shall make cash contributions to any political campaign committee or multicandidate political campaign committee with respect to any election.

SECTION 17. Tennessee Code Annotated, Title 2, Chapter 10, Part 3, is amended by adding the following as a new, appropriately designated section:

**§ 2-10-3\_\_.**

No individual shall contribute more than twenty-five thousand dollars (\$25,000) in the aggregate to all candidates, political campaign committees and multicandidate political campaign committees annually. All contributions made to political campaign committees controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall count toward the aggregate limit in this section. The contributions a

candidate makes to such candidate's own election shall not count toward the aggregate limit in this section.

SECTION 18. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following as a new, appropriately designated section:

**§ 2-10-1\_\_.**

(a) As used in this section, "independent expenditure" means an expenditure by a person that is not made in concert or cooperation with or at the request or suggestion of a candidate, the candidate's authorized political campaign committee, or their agents, or a political party committee or its agents.

(b)

(1) A person, including a political campaign committee, that makes or contracts to make independent expenditures aggregating one thousand dollars (\$1,000) or more beginning the thirtieth day before an election and ending election day, shall file a report describing the expenditures within twenty-four (24) hours of such expenditures.

(2) After a person files a report under subdivision (1), the person shall file an additional report within twenty-four (24) hours after each time the person makes or contracts to make independent expenditures with respect to the same election as that to which the initial report relates.

(3) A report under this subsection shall be electronically filed with the registry of election finance on a form created by the registry, which form shall contain the same information required by § 2-10-107, including the name of the candidate the election of whom an expenditure is intended to support or oppose.

(4) The reports filed under this section shall be in addition to any other reports required to be filed by a political campaign committee.

SECTION 19. Tennessee Code Annotated, Section 2-10-310(a), is amended by deleting subdivision (1) and substituting instead the following:

(1) Except as provided in subdivisions (a)(2) and (3), from January 1 through the earlier of the last day of regular session or June 1 in odd years, and from January 1 to the earlier of May 15 or the conclusion of the regular session in even years, no member of the general assembly or a member's campaign committee shall conduct a fundraiser or solicit or accept contributions for the benefit of the caucus, any caucus member, or member or candidate for the general assembly or governor.

SECTION 20. Tennessee Code Annotated, Section 2-10-310, is amended by deleting subsection (b) and substituting instead the following:

(b) From January 1 through the earlier of the last day of regular session or June 1 in odd years, and from January 1 to the earlier of May 15 or the conclusion of the regular session in even years, a political campaign committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly, that makes contributions to a candidate for the general assembly or governor for election or to defray the expenses of such person's office shall not conduct a fundraiser, solicit or accept contributions for the benefit of the caucus, any caucus member, or candidate for the general assembly or governor.

SECTION 21. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following as a new, appropriately designated section:

**§ 2-10-1\_\_.**

No statewide candidate for public office or candidate for the general assembly shall use any campaign contributions received by such candidate or such candidate's political campaign committee to repay, directly or indirectly, outstanding loans in

connection with the candidate's campaign for election from the candidate or the candidate's immediate family as defined in § 3-6-301 after September 30 following the November regular election. Such loans that remain unpaid after September 30 shall be reported as contributions by such person making the loan on the next contribution statement filed with the registry. With regard to statewide and general assembly candidates in a special election or any other candidate for public office, such loans that remain unpaid after two hundred ten (210) days after the election in question shall be reported as contributions on the next contribution statement filed by such candidate.

SECTION 22. Tennessee Code Annotated, Section 2-10-117, is amended by deleting such section in its entirety and substituting instead the following:

**§ 2-10-117.**

No multicandidate political campaign committee other than a committee controlled by a political party on the national, state, or local level or by a caucus of such political party established by members of either house of the general assembly shall make a contribution to any candidate in a period from twenty (20) days before an election until the day of the election.

SECTION 23. Tennessee Code Annotated, Title, 2, Chapter 10, Part 1, is amended by adding the following as new, appropriately designated section:

**§ 2-10-1\_\_.**

(a) Any political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986, as amended from time to time) that is not registered as a political campaign committee or a multicandidate political campaign committee, and that raises or spends money for the purpose of advocating the election or defeat of a state or local candidate or the approval or rejection of an issue shall disclose the following information to the registry of election finance on a form prescribed by the registry:

- (1) Name of organization;
- (2) Executive director or a contact name for the organization; and
- (3) Address.

Such political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986, as amended from time to time) shall not solicit or accept contributions until it has notified the registry of election finance of its existence and of the purposes for which it was formed.

(b) A political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986, as amended from time to time) that engages in activities either expressly advocating the election or defeat of a clearly identified candidate for a statewide office or for general assembly may not accept contributions totaling more than one thousand dollars (\$1,000) from any person or more than seven thousand five hundred dollars (\$7,500) from any multicandidate political campaign committee with respect to any election cycle. Nothing in this section is intended to limit or abrogate the ability of an individual to exercise such individual's right of free speech by expending personal funds on such individual's own behalf to engage in activities either expressly advocating the election or defeat of a clearly identified candidate for a statewide office or the general assembly, subject to the reporting and disclosure requirements of this chapter.

(c) It shall be an offense for any person to create, establish or organize more than one (1) political organization (as defined in Section 527(e)(1) of the Internal Revenue Code of 1986, as amended from time to time) with the intent to avoid or evade the contribution limitations contained in subsection (a).

(d) A violation of this section is a Class A misdemeanor.



SECTION 24. Tennessee Code Annotated, Title 3, Chapter 6, is amended by deleting Part 1 in its entirety and by substituting instead the following language as a new, appropriately designated part:

**§ 3-6-101.**

Parts 1 - 2 of chapter 6 shall be known and may be cited as the "Tennessee Ethics Commission Act of 2006."

**§ 3-6-102.**

It is the intent of the general assembly that the integrity of the processes of government be secured and protected from abuse. The general assembly recognizes that a public office is a public trust and that the citizens of Tennessee are entitled to a responsive, accountable, and incorruptible government. The Tennessee ethics commission is established to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, financial disclosure requirements, and ethical conduct.

**§ 3-6-103.**

(a) There is created as an independent entity of state government a Tennessee ethics commission. The commission shall be composed of six (6) members appointed as provided in this section. Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the six (6) members appointed at least one (1) shall be a female member and one (1) shall be an African-American member. However, an African-American female member shall not satisfy the requirement of one (1) female member and one (1) African-American member. Each member shall:

(1) Have been a legal resident of this state for five (5) years immediately preceding selection;

(2) Be at least thirty (30) years of age;

(3) Be a registered voter in Tennessee;

(4) Be a person of high ethical standards who has an active interest in promoting ethics in government;

(5) Not have been convicted of a felony.

No person shall be appointed to the commission if such person, or any member of such person's immediate family as defined in § 3-6-301, is announced as a candidate for public office, holds public office, or is a member of a political party's state executive committee.

(b)

(1) For administrative purposes, the Tennessee ethics commission shall be attached to the department of state for all administrative matters relating to receipts, disbursements, expense accounts, budget, audit, and other related items. The autonomy of the commission and its authority are not affected by this subsection and the secretary of state shall have no administrative or supervisory control over the commission.

(2) No person performing staff duties for the Tennessee ethics commission including the executive director, or any member of such person's immediate family as defined in § 3-6-301, shall, during the period of such employment:

(A) Be allowed to hold or qualify for elective office to any state or local public office as defined in § 2-10-102;

(B) Be an officer of any political party or political committee;

(C) Permit such person's name to be used or make contributions in support of or in opposition to any candidate or proposition;

(D) Participate in any way in any election campaign; or

(E) Lobby or employ a lobbyist; provided, that this provision on lobbying shall not prohibit the executive director from the performance of the executive director's duties.

(c) The members of the Tennessee ethics commission shall be selected as follows:

(1)

(A) The governor shall appoint one (1) member who is a member of the majority party and one (1) member who is a member of the minority party.

(B) The speaker of the senate shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the senate and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the senate. The speaker of the senate may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(C) The speaker of the house shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the house and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the house. The speaker of the house of representatives may request

a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(2) Each gubernatorial appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by each house of the general assembly and each legislative appointee shall be subject to confirmation by a two-thirds (2/3) vote of approval by the appointing authority's house. If the general assembly is in session when an appointment is made, then the appointment shall be subject to confirmation within thirty (30) days of such appointment. If the general assembly is not in session when an appointment is made, the appointment shall be subject to confirmation within thirty (30) days after the general assembly next convenes following such appointment. If an appointee is refused confirmation, or is not confirmed during such thirty (30) day period, then the appointing authority of such appointee shall select another appointee for confirmation subject to the requirements of this section. Vacancies shall be filled in the same manner as the vacating member's office was originally filled.

(d) The initial members' terms of office shall commence upon appointment. For purposes of calculating the terms of such members' offices, such appointments shall be deemed to be made on January 1, 2007. The initial members' terms shall be staggered as follows:

- (1) The gubernatorial appointees shall serve initial terms of two (2) years;
- (2) The senate appointees shall serve initial terms of three (3) years; and

(3) The house appointees shall serve initial terms of four (4) years.

Thereafter, members of the commission shall serve four-year terms and are eligible to serve two (2) four-year terms in succession.

(e) The initial chair of the commission shall be appointed by the governor. Every year thereafter the commission shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. Four (4) members of the commission shall constitute a quorum. Except as provided in § 3-6-201, four (4) affirmative votes are required for any commission action. Special meetings shall be called by the chair on the chair's initiative or upon the written request of three (3) members. Members shall receive written notice three (3) days in advance of a special meeting. Such notice shall be served personally or left at a member's usual place of residence and shall specify the purpose, time and place of the meeting. No matters unrelated to the specified purpose may be considered without a specific waiver by all members of the commission.

(g) The members of the commission shall receive no compensation; provided, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the commission or such member's immediate family, as defined in § 3-6-301, shall during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined in § 2-10-102;

(2) Be an employee of the state or any political subdivision of the state;

(3) Be an officer of any political party or political committee;

(4) Permit such person's name to be used or make campaign contributions in support of or in opposition to any candidate or proposition, except that a member's immediate family may make campaign contributions in support of or in opposition to any candidate or proposition;

(5) Participate in any way in any election campaign; or

(6) Lobby or employ a lobbyist.

(i) The prohibitions of subsection (h) shall not prohibit any incumbent member of the commission from seeking votes for confirmation of his or her appointment to the commission.

(j)

(1) The provisions of subsection (h), except subdivision (h)(2), shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission; provided, that such one-year prohibition with respect to subdivision (h)(1) shall not apply to a member of the commission who resigns from the commission and, after resignation, the member or such member's immediate family, as defined in § 3-6-301, qualifies as a candidate for

elective office to any state or local public office, nor shall such prohibition apply to making contributions to or participating in the candidate's own campaign for such election, if the resignation occurs either prior to the qualifying deadline for such election or prior to certifying to the commission the name and address of the candidate's or committee's political treasurer for such election pursuant to §2-10-105(e), whichever is earlier.

(2) A member of the commission or any of such member's immediate family, as defined in § 3-6-301, may not be appointed or hired by an official over whom the commission has jurisdiction for one (1) year subsequent to the removal, vacancy or termination of the term of office of such member.

(3) Notwithstanding the provisions this section, during that one-year period specified in subdivision (j)(1), a former member of the commission or such former member's immediate family, as defined in § 3-6-301, may support a candidate or the committee of a candidate for a federal election in any way permitted by law, including financial support.

(k) Unless otherwise provided by law, any member of the commission who violates the oath of office for such position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor, and such violation or participation shall be a ground for removal from office.

#### **§ 3-6-104.**

(a) The Tennessee ethics commission shall appoint a full-time executive director who shall serve at the pleasure of the commission. Other staff shall be employed on recommendation of the executive director with the approval of the commission. The

commission may call on the department of state for such advice, documents or services as it may require.

(b) Employees of the commission shall not have career service status, but such employees shall be subject to personnel policies applicable to state employees generally, such as leave, compensation, classification and travel requests.

**§ 3-6-105.**

(a) The Tennessee ethics commission is vested with jurisdiction to administer and enforce the provisions of this chapter, §§ 2-10-122 – 2-10-129, and the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5.

(b) In addition to the jurisdiction vested in subsection (a), with respect to members of the general assembly, the commission also has jurisdiction to investigate, in accordance with § 3-6-203, complaints alleging acts by a member of the general assembly that constitute misuse of office for personal financial gain; provided however, if a member of the general assembly makes the declaration required by § 2-10-127(d), then such member shall not be deemed to have misused his or her office for personal financial gain based solely upon the member's relationship to a sibling, spouse or child who lobbied for or against the legislative action.

(c) The ethics committee in each house is authorized to refer to the commission for investigation in accordance with § 3-6-203 any complaint it receives alleging a violation of the provisions of this chapter; §§ 2-10-122 – 2-10-129, the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5; or misuse of legislative office for personal financial gain.

(d) The governor is authorized to refer to the commission for investigation in accordance with § 3-6-203 any allegation the governor receives concerning a violation by an officer or staff member of the executive branch subject to the jurisdiction of the



commission pursuant to the provisions of this chapter; §§ 2-10-122 – 2-10-129, the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5; an executive order related to ethics, or misuse of office for personal financial gain.

(e) The commission shall refer to the registry of election finance for investigation and appropriate action any complaint filed with the commission that is within the jurisdiction of the registry.

(f) The commission is vested with jurisdiction over any violation of the laws administered and enforced by the commission or any alleged violation referred to the commission pursuant to this section that occurs within five (5) years prior to the filing of a complaint alleging such violation.

**§ 3-6-106.**

(a) The duties of the Tennessee ethics commission include the following:

(1) Recommend guiding principles of ethical conduct for consideration and adoption by the legislative or executive branches. The commission shall publish such principles on the commission's web site. Guiding principles of ethical conduct may be recommended for each of the following classifications:

(A) Members of the general assembly;

(B) The governor, secretary of state, treasurer, comptroller of the treasury, members of the governor's cabinet, and cabinet level staff within the governor's office; and

(C) Employers of lobbyists and lobbyists;

(2) Develop prescribed forms for complaints, registrations, statements and other documents that are required to be filed under the laws administered and enforced by the commission with the objective of making the documents as

simple and understandable as possible for both the person filing the document and the average citizen of the state of Tennessee;

(3) Develop filing, coding and cross-indexing systems;

(4) Make as many documents filed available for viewing on the Internet as is reasonable based on the commission's financial resources and make each document filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the same; provided, that this subsection does not apply to those documents required to be confidential pursuant to § 3-6-202;

(5) Review all filed documents to ensure compliance with the laws administered and enforced by the commission. Statements filed with the commission for more than two (2) years shall be deemed to be sufficient absent a showing of fraud or the existence of an ongoing investigation related to such statement;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Prepare and publish on the commission's web site reports as are deemed to be appropriate and in the public interest by the commission, including quarterly reports listing all registered employers of lobbyists and lobbyists, as defined in part 3 of this chapter, alphabetically;

(8) Prepare and publish manuals and guides to facilitate compliance with, and enforcement of, the laws administered and enforced by the commission;

(9) Administer ethics training as provided in this part;

(10) Provide an annual report to the governor and the general assembly by February 1 concerning the administration and enforcement of laws under the

jurisdiction of the commission, including the necessity, or lack of necessity, for any additional action or additional legislation that will serve to further the purposes of this chapter;

(11) Investigate any alleged violation upon sworn complaint or upon its own motion as provided in § 3-6-201; and

(12) Preserve all filed reports or statements for a period of at least five (5) years from the date of receipt, or longer when there is a pending investigation by the commission or any law enforcement agency or when there is an ongoing administrative or judicial proceeding related to such information.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the commission upon the request of the executive director or the commission.

**§ 3-6-107.**

The Tennessee ethics commission possesses power to:

(1) Promulgate such rules and regulations pursuant to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, as are necessary to implement the provisions of this chapter, §§ 2-10-122 – 2-10-129, and the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5;

(2) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require by subpoena duces tecum the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation;

(3) Issue written advisory opinions to any person subject to the jurisdiction of the commission. With respect to an issue addressed in an advisory

opinion, any person who conforms such person's behavior to the requirements of the advisory opinion may rely upon such opinion without threat of sanction;

(4) Request legal and investigative assistance from the office of the attorney general and reporter;

(5) Conduct a hearing to determine if an actual violation has occurred;

(6) Issue an appropriate order following such a determination;

(7) Assess and collect late filing fees in amounts provided by statute;

(8) Assess and collect a civil penalty as provided in this chapter, the "Conflict of Interest Disclosure Law," compiled in title 8, chapter 50, part 5, and rules promulgated pursuant to this chapter and the Conflict of Interest Disclosure Law; provided, that the commission shall only have the power to assess a civil penalty after notice and opportunity for hearing; and

(9) Seek injunctive relief in the chancery court of Davidson County to prevent continuing violations of this chapter.

**§ 3-6-108.**

For the purposes of enforcement, this chapter shall be prospective only, and the Tennessee ethics commission shall limit its investigations to acts or omissions which occur after October 1, 2006.

**§ 3-6-109.**

Where the results of an investigation indicate a criminal violation has occurred, the commission shall refer the matter to the appropriate law enforcement agency.

**§ 3-6-110.**

The Tennessee ethics commission has the authority to petition the chancery court through the attorney general and reporter or its own legal counsel for enforcement

of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

**§ 3-6-111.**

All fees collected by the Tennessee ethics commission pursuant to the provisions of this chapter shall be deposited by the state treasurer in a separate account exclusively for the ethics commission and shall be used by the ethics commission to defray expenses necessary to administer the provisions of this chapter, including the payment of salaries to employees, the purchase of supplies, and any other necessary expenses. Unexpended and unobligated fees remaining in such account at the end of any fiscal year shall not revert to the general fund but shall remain available for use by the commission. Penalties imposed by the ethics commission shall be deposited into the state general fund.

**§ 3-6-112.**

(a) The Tennessee ethics commission shall provide an annual ethics course concerning compliance with the laws administered and enforced by the commission for supervisory personnel in the executive branch of state government. The commission shall notify administrative departments and divisions in advance of the time and location of the course. The course may be offered on multiple occasions in locations that will make attendance by personnel in the three (3) grand divisions reasonably convenient. The ethics course shall include, but not be limited to, discussion of relevant laws, administrative regulations, advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Administrative departments and divisions shall annually select appropriate supervisory personnel and shall communicate the name, position, and contact

information of each individual required to attend the annual course to the commission prior to February 1.

**§ 3-6-113.**

(a) The Tennessee ethics commission shall provide an annual orientation ethics course concerning compliance with the laws administered and enforced by the commission for members of the general assembly who have not yet taken the orientation ethics course and shall offer an annual current issues course for members of the general assembly who have taken the orientation course. Such courses shall be offered on a date or dates when the general assembly is in session. The commission shall notify such members in advance of the time and location of the courses.

(1) The orientation ethics course shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of practical application of ethics laws, and a question-and-answer participatory segment regarding common problems and situations.

(2) The current issues course shall include, but not be limited to, discussion of changes in relevant laws, administrative regulations, new advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Members of the general assembly shall attend the courses provided by the commission pursuant to subsection (a). However, a member may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the current issues course requirement.

**§ 3-6-114.**

(a) The Tennessee ethics commission shall provide an annual ethics course on a date or dates when the general assembly is not in session for lobbyists and employers of lobbyists. Training shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, and summaries of advisory opinions. The commission shall impose a fee for attending the ethics course that will enable participation in the course to be funded from the fee.

(b) Each lobbyist shall attend one (1) ethics course annually. A lobbyist may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the ethics course requirement.

**§ 3-6-115.**

(a) Notwithstanding any other provision of law to the contrary, the Tennessee ethics commission shall:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all persons that are required to electronically register or file statements and reports with the commission pursuant to this chapter, §§ 2-10-122 – 2-10-129, and the “Conflict of Interest Disclosure Law”, compiled in title 8, chapter 50, part 5;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each person required to register or file statements and reports with the commission secure access to the electronic registration and filing system. The system shall provide adequate safeguards to prevent unauthorized persons from inappropriately tampering with or changing the data and shall provide for secure authentication safeguards for documents such as electronic signatures and electronic notarization;

(3) Provide training to each person required to register or file statements and reports with the commission on the use of the electronic filing system;

(4) Make, with the advice, assistance and approval of the office of information resources, electronically filed reports and statements available for viewing on the commission's web site in a format that is searchable and that may be downloaded and managed by a user with appropriate software; provided that this subdivision does not apply to those documents required to be confidential pursuant to § 3-6-202. In addition to any other method of information management developed by the commission, conflict of interest disclosures shall be indexed and searchable by county;

(5) Beginning on October 1, 2006, with the advice, assistance and approval of the office of information resources, provide the public access to lists compiled from the registrations and other documents filed by employers of lobbyists, lobbyists, and persons required to file conflict of interest disclosures. In addition, the commission shall provide assistance to anyone seeking to access this information on the Internet.

(b) The commission, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The commission shall, with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use by October 1, 2006. Any person required to electronically file statements and reports with the commission shall file required statements and reports electronically on or after October 1, 2006. Any required statements and reports filed with the registry of election finance prior to October 1, 2006 shall continue to be filed with the registry until such date.



(d) All information entered by any person required to file statements and reports electronically with the commission shall remain confidential until the information is submitted to the commission.

(e) The commission shall strive to establish electronic filing for all documents required to be filed with the commission.

(1) The commission, unless otherwise required by law to provide for electronic filing, shall have the discretion to determine when electronic filing is financially feasible and will be an accessible and efficient method of filing.

(2) The commission shall establish rules specifying the manner in which a report, statement or other documents shall be filed. Such rules shall be published and posted conspicuously on the commission's web site at least sixty (60) days prior to the due date of any document affected by such rules.

SECTION 25. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

**§ 3-6-201.**

(a)

(1) Any citizen of Tennessee may file a sworn complaint executed on a form prescribed by the Tennessee ethics commission alleging a violation of laws or rules within the jurisdiction of the commission;

(2) No political party chairman, state or county executive director of a political party, or employee or agent of a political party acting in his or her official capacity may file a complaint with the commission for a violation of laws or rules within the jurisdiction of the commission. Nothing in this section prohibits a private citizen, acting in such private capacity, from filing a sworn complaint with the commission under this section.

(b) A complaint filed under this section must set forth in simple, concise, and direct statements:

- (1) The name of the complainant;
- (2) The street or mailing address of the complainant;
- (3) The name of each alleged violator;
- (4) The position or title of each alleged violator;
- (5) A short and plain statement of the nature of the violation and the law or rule upon which the commission's jurisdiction over the violation depends;
- (6) A statement of the facts constituting the alleged violation and the dates on which, or period of time in which, the alleged violation occurred; and
- (7) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

(c) The complaint must be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public.

(d) The commission may initiate a complaint upon an affirmative vote that includes three (3) members of the commission who are members of the same party or two (2) members of the commission who are members of different parties.

(e)

(1) Any complaint that is filed against a candidate in any election, as defined in § 2-10-102, during the period from thirty (30) days immediately prior to such election through election day shall be considered filed but not verified by the commission. The commission shall take no action relative to the complaint during such thirty (30) day period.

(2) During such thirty (30) day period, the commission shall stay any proceedings with regard to an ethics complaint filed against a candidate more than thirty (30) days prior to early voting for such election; provided that, the candidate may waive such postponement in writing.

(3) For purposes of this subsection, any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the candidate stands for elective office.

(f) Within five (5) days after the filing of a complaint, the commission shall cause a copy of the complaint to be transmitted by return receipt requested mail to the person alleged to have committed the violation.

**§ 3-6-202.**

(a) The members and staff of the Tennessee ethics commission shall preserve the confidentiality of all commission proceedings, including records relating to a preliminary investigation. Such records shall be exempt from the Tennessee Public Records Act, compiled in title 10, chapter 7 and shall be confidential either until the

alleged violator requests in writing that such investigation and associated records and meetings be made public or until the commission determines that probable cause exists to believe that a violation has occurred. A member of the commission or a member of the commission staff may acknowledge receipt of a complaint or may disclose information to the extent necessary to successfully pursue an investigation. In no event shall such information against a candidate in any election, as defined in § 2-10-102, be disclosed during the period from thirty (30) days immediately preceding the commencement of early voting for such election through election day unless a candidate requests in writing the disclosure of such information.

(b) A member of the commission or member of the commission staff who knowingly discloses such information in violation of this section commits a Class C misdemeanor. A violation of this section also subjects such person to the civil penalties imposed by §3-6-205(a)(2). Violation of this section by a member of the commission shall be a ground for removal from office.

**§ 3-6-203.**

(a) The commission shall initiate a preliminary investigation of each sworn complaint that complies with § 3-6-201. If the commission determines that the sworn complaint does not comply with § 3-6-201, then the commission shall dismiss the complaint and notify the complainant. In the notification sent to the complainant, the commission shall state with particularity why the complaint does not comply with § 3-6-201. If the commission has referred the complaint to the registry of election finance, then the commission shall also notify the complainant of such referral.

(b) The commission shall refer a factually and legally sufficient complaint to the office of the attorney general and reporter who shall conduct a preliminary investigation. The commission shall make a probable cause determination after the office of the

attorney general and reporter completes its investigation and reports its findings to the commission. Both the alleged violator and the complainant shall be entitled, upon request, to present evidence before the commission prior to the commission's probable cause determination. The commission shall have notice that evidence will be presented to the commission personally served upon, or sent by return receipt requested mail, to the alleged violator and the complainant. The commission has discretion to determine the appropriate procedure for the presenting of such evidence.

(1) If the commission determines that no probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall dismiss the complaint by issuing a report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. A complainant may request a hearing upon a determination of no probable cause. If after such hearing the commission determines that there is no probable cause, the commission may order the complainant to reimburse the alleged violator for any reasonable costs and reasonable attorney fees the alleged violator has incurred. All records and proceedings of the commission related to the preliminary investigation shall become public record sixty (60) days after:

(A) The date the report of the commission's finding is issued, if the complainant does not request a probable cause hearing; or

(B) The date the commission issues its finding of no probable cause following a hearing requested by the complainant.

(2) If the commission determines that probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall conduct a public hearing and, if the alleged

violator is a member of the general assembly, shall notify the ethics committee of the appropriate house of such probable cause determination. Both the alleged violator and the complainant shall receive, by personal service or return receipt requested mail, notice of the time, date, and location of such hearing.

**§ 3-6-204.**

(a) The Tennessee ethics commission, on its own motion or at the request of the alleged violator, may issue subpoenas in accordance with the Tennessee Rules of Civil Procedure, except that service may be by certified mail in addition to means of service provided by the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided by law or by action of the commission. The party requesting the subpoenas shall bear the cost of paying the fees to the witnesses subpoenaed.

(b) A person who is aggrieved by a final disposition of the commission shall be entitled to judicial review.

(1) Proceedings for review shall be instituted by filing a petition for review in the chancery court of Davidson County, unless another court is specified by statute. Such petition shall be filed within sixty (60) days after the entry of the commission's final disposition thereon. Copies of the petition shall be served upon the commission, the complainant and all parties of record, including the attorney general and reporter, in accordance with the provisions of the Tennessee Rules of Civil Procedure pertaining to service of process.

(2) The provision of § 4-5-322 relating to judicial review of agency decisions shall apply to a petition of review filed pursuant to this section.

**§ 3-6-205.**

(a) The Tennessee ethics commission may impose a civil penalty for a violation of the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5.

(1) "Class 1 offense" means the late filing of any report or statement required by the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750).

(A) The Tennessee ethics commission shall have personally served upon, or sent by return receipt requested mail, an assessment letter to any person required to file upon the commission's discovery that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) per day shall begin to accrue five (5) days after personal service or receipt of the letter and will continue to accrue until the report is filed, or for thirty (30) days, whichever occurs first.

(B) To request a waiver, reduction or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission.

(2) "Class 2 offense" means failing to file a report required by the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5 within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of the "Conflict of Interest Disclosure Law", compiled in title 8, chapter 50, part 5, except where another penalty is prescribed by law. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars (\$10,000).

(A) For any Class 2 offense, the Tennessee ethics commission shall send an assessment letter to a person required to file in a form sufficient to advise the person required to file of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a person required to file for correction, a copy of the original shall be retained on file until the corrected report is returned to the Tennessee ethics commission. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(B) To request a waiver, reduction or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 2 offense, a person shall file a petition with the commission.

(b) Any candidate for state public office who fails to file any statement or report required by title 8, chapter 50, part 5 shall be ineligible to qualify for election to any state public office until such statement or report is filed with the commission.

**§ 3-6-206.**

(a) The Tennessee ethics commission shall maintain a register of all civil penalties imposed under this chapter and remaining unpaid.

(b) If a civil penalty lawfully assessed and any lawfully assessed cost attendant thereto are not paid within thirty (30) days after the assessment becomes final, any candidate owing such civil penalty shall be ineligible to qualify for election to any state public office until such penalty and costs are paid.

(c) If a civil penalty authorized by this section is imposed, it shall be considered as a personal judgment against the person subject to the civil penalty.



**§ 3-6-207.**

Notwithstanding the provisions of § 3-6-203, if the commission determines that probable cause exists to believe that a member of the general assembly has committed an act constituting misuse of office for personal financial gain, then, except as otherwise provided in § 3-6-306(a)(3), no civil penalty shall be imposed and the commission shall instead report its determination and findings to the ethics committee of the appropriate house of the general assembly.

**§ 3-6-208.**

(a) If the commission determines that a person:

(1) Filed a complaint or provided information which resulted in an investigation knowing that the material statements in the complaint or the information provided were not true;

(2) Filed an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Filed one (1) or more unsubstantiated complaints which constituted abuse of process,

then the complainant is subject to the civil penalties authorized by §3-6-205(a)(2) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The commission may also decline to consider any further complaints brought by such complainant.

(b) The sanctions authorized by subsection (a) are not exclusive and do not preclude any other remedies or rights of action the alleged violator may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency who gives credible information

resulting in a formal complaint filed by the commission is immune from any civil liability that otherwise might result by reason of such actions.

SECTION 26. Tennessee Code Annotated, Sections 2-10-122 – 2-10-129, are amended by deleting the language “registry of election finance” wherever it may appear and by substituting instead the language “Tennessee ethics commission” and are further amended by deleting the language “registry” wherever it may appear and by substituting instead the language “commission”.

SECTION 27.

(a) Tennessee Code Annotated, Section 2-10-122(1), is amended by deleting the first sentence and by substituting instead the following:

"Consulting services" with respect to an official in the legislative branch or an official in the executive branch means services to advise or assist a person or entity in influencing legislative or administrative action, as such term is defined in § 3-6-301, relative to Tennessee state government. "Consulting services" with respect to an official in the legislative branch or an official in the executive branch also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the state of Tennessee.

(b) Tennessee Code Annotated, Section 2-10-122(2), is amended by deleting the first sentence and by substituting instead the following:

"Consulting services" with respect to an elected municipal or county official, including a member-elect of a municipal or county legislative body, means services to advise or assist a person or entity in influencing legislative or administrative action, as such term is defined in § 3-6-301, relative to the municipality or county represented by such official. "Consulting services" with respect to an elected municipal or county official, including a member-elect of a

municipal or county legislative body, also means services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with the municipality or county represented by such official.

(c) Tennessee Code Annotated, Section 2-10-122(3), is amended by deleting the language “§ 3-6-114(b) or (c)” and by substituting instead “§ 3-6-305(b) or (c)”.

(d) Tennessee Code Annotated, Section 2-10-122(5), is amended by deleting the language “§ 3-6-102(17)” and by substituting instead the language “§ 3-6-301”.

SECTION 28. Tennessee Code Annotated, Section 2-10-127, is amended by deleting the language “§ 3-6-104” in the first sentence of subsection (a) and by substituting instead the language “§ 3-6-302”.

SECTION 29. Tennessee Code Annotated, Section 2-10-127(d)(2), is amended by deleting the subdivision in its entirety and by substituting instead a new subdivision (2):

(2) The person may alternatively state that such person is declaring a potential conflict of interest in accordance with the provisions of this section or indicate such conflict via the voting board in the chamber of the house of representatives or the senate.

SECTION 30.

(a) Tennessee Code Annotated, Section 2-10-128(a), is amended by deleting the language “Any member of the general assembly shall report annually in writing to the registry of election finance prior to February 1:” and by substituting instead the following:

Each member of the general assembly and the member’s spouse shall report annually in writing to the Tennessee ethics commission, prior to April 15, the following information for the prior calendar year:

(b) Tennessee Code Annotated, Section 2-10-128(a), is further amended by deleting the language “and” at the end of subdivision (1) and by deleting the language

and punctuation “disclosure,” at the end of subdivision (2) and by substituting instead the language and punctuation “disclosure; and” and by adding the following language as a new subdivision (3):

(3) Any trust considered to be a “blind trust” pursuant to § 35-50-120 to which a member or the member’s spouse is an interested party. The person making disclosure shall state that he or she is an interested party to a blind trust and provide the name and address of the trustee of such trust. Notwithstanding any provisions of this act to the contrary, the person making disclosure is not required to disclose any individual asset held in a blind trust.

(c) Tennessee Code Annotated, Section 2-10-128(a)(1), is further amended by inserting the following sentences immediately preceding the final sentence:

If a member or spouse's ownership of a business enterprise's securities provides income of more than two hundred dollars (\$200), then the business enterprise shall be named in lieu of any investment brokerage firm or other fiduciary that may possess or manage the securities on behalf of the member or spouse. If a member or spouse's ownership of shares of a mutual fund provides income of more than two hundred dollars (\$200), then the mutual fund shall be named in lieu of the business enterprises whose securities are owned by the mutual fund. For purposes of this subdivision (1), income shall be reported for the calendar year in which it is received.

(d) Tennessee Code Annotated, Section 2-10-128, is amended by deleting subsection (c) in its entirety and by substituting the following language as a new subsection (c):

(c) The commission shall create a consolidated form which provides for the disclosure of the information required to be reported by the provisions of this

section and the provisions of § 8-50-502. Any person, who is required to disclose information pursuant to this section and § 8-50-501 who files such consolidated form in a manner which complies with the requirements of such sections, shall fulfill the requirements of this section and § 8-50-501. Filing the consolidated form prior to April 15 as required by this section shall also fulfill the requirements of §§ 8-50-503 and 8-50-504.

SECTION 31. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

**§ 2-10-1\_\_.**

(a) The governor, any member of the governor's cabinet, cabinet level staff, and such persons' spouses shall report annually to the Tennessee ethics commission prior to April 15 the following information for the prior calendar year:

(1) The major source or sources of private income of more than two hundred dollars (\$200), including, but not limited to, offices, directorships, and salaried employments of the person making disclosure, but no dollar amounts need be stated. The disclosure shall state the name and address of any entity which provides a source of private income of more than two hundred dollars (\$200). This subdivision (1) shall not be construed to require the disclosure of any client list or customer list, nor the address of any investment property. When reporting private income received from a security listed on the New York Stock Exchange, American Stock Exchange or the Nasdaq, the disclosure may state only the name of the entity, in lieu of disclosing the name and address of the entity. If a person listed in subsection (a) or their spouse's ownership of a business enterprise's securities provides income of more than two hundred dollars (\$200), then the business enterprise shall be named in lieu of any

investment brokerage firm or other fiduciary that may possess or manage the securities on behalf of such person or spouse. If a person listed in subsection (a) or their spouse's ownership of shares of a mutual fund provides income of more than two hundred dollars (\$200), then the mutual fund shall be named in lieu of the business enterprises whose securities are owned by the mutual fund. For purposes of this subdivision (1), income shall be reported for the calendar year in which it is received. When reporting private income received from investments with a federal or state chartered bank, the disclosure may state only the name of the bank, in lieu of stating the name and address of the bank;

(2) Any positions held during the applicable reporting period, including, but not limited to, those of an officer, director, trustee, general partner, proprietor, or representative of any corporation, firm, partnership, or other business enterprise, or any non-profit organization or educational institution. Both the year and month must be reported for the period of time the position was held. Positions with the federal government, religious, social, fraternal, or political entities, and those solely of an honorary nature do not require disclosure; and

(3) Any trust considered to be a "blind trust" pursuant to § 35-50-120 to which a person listed in subsection (a) or their spouse is an interested party. The person making disclosure shall state that he or she is an interested party to a blind trust and provide the name and address of the trustee of such trust. Notwithstanding any provisions of this act to the contrary, the person making disclosure is not required to disclose any individual asset held in a blind trust.

(b) The reports in subsection (a) shall be posted on the web site of the Tennessee ethics commission. The Tennessee ethics commission shall modify existing forms to accomplish the purposes of this act.

(c) The commission shall create a consolidated form which collects the information required to be reported by the provisions of this section and the provisions of § 8-50-502. Any person, who is required to disclose information pursuant to this section and § 8-50-501 who files such consolidated form in a manner which complies with the requirements of such sections, shall fulfill the requirements of this section and § 8-50-501. Filing the consolidated form prior to April 15 as required by this section shall also fulfill the requirements of §§ 8-50-503 and 8-50-504.

SECTION 32. Tennessee Code Annotated, Title 2, Chapter 10, Part 1, is amended by adding the following language as a new, appropriately designated section:

**§ 2-10-1\_\_.**

(a) If any person or other entity that contracts with the state of Tennessee, pays more than a two hundred dollar (\$200) fee, commission or other form of compensation, to the governor, any member of the governor's cabinet, any cabinet level staff, or such persons' spouses, for consulting services on contracts to which the state of Tennessee is not a party, and for which such consulting services are to be rendered outside the state of Tennessee, then such person or entity shall disclose the following to the Tennessee ethics commission:

- (1) The name and address of the person or entity paying the fee, commission or other form of compensation;
- (2) The person to whom the fee, commission or other form of compensation was paid, including the amount paid;
- (3) The position of the person to whom the fee, commission or other form of compensation was paid;
- (4) The date the services were rendered; and
- (5) A general description of the services rendered.

(b) As used in this section, “consulting services” means services performed outside the state of Tennessee, which would be defined as “influencing legislative or administrative action”, in § 3-6-301, if such services were performed in the state of Tennessee. “Consulting services” also includes services to advise or assist a person or entity in maintaining, applying for, soliciting or entering into a contract with a state other than the state of Tennessee.

(c) The disclosure shall be on a form designed by the Tennessee ethics commission, shall be made under oath, and shall contain a statement that a false statement on the report is subject to the penalties of perjury. A disclosure form shall be filed within five (5) days of entering into a contract not involving the state of Tennessee with persons subject to subsection (a). Such form shall be updated annually, no later than February 1, if necessary.

(d) All disclosures made to the commission pursuant to this section are public records, and are open for inspection during regular business hours.

(e)

(1) It is a Class C misdemeanor for any person or entity to knowingly fail to file a disclosure form as required by this section.

(2) It is a Class C misdemeanor for any person or entity to file a disclosure form required by this section more than thirty (30) days after the date on which the report is due.

SECTION 33. Tennessee Code Annotated, Title 3, Chapter 6, is amended by adding the following language as a new, appropriately designated part:

**§ 3-6-301.**

As used in this part, unless the context otherwise requires:



(1) "Administrative action" means the taking of any recommendation, report or nonministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government;

(2) "Association" means any union, league, chamber of commerce, committee, club, or other membership organization;

(3) "Attorney general" means the attorney general and reporter;

(4) "Audit and investigatory information" means data pertaining to the nature, source, or amount of employer or lobbyist income, expenditures, receipts, assets, liabilities, net worth, or related financial or proprietary information that is received by, recorded by, prepared by, furnished to, or collected by or on behalf of the ethics commission during the course of any audit, investigation or other examination undertaken for the purpose of ensuring compliance with, or imposing civil or criminal sanctions for violation of, the provisions of this part. "Audit and investigatory information" does not include data in a form which cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular employer or lobbyist;

(5) "Campaign contribution" means any contribution as defined by § 2-10-102(4);

(6) "Candidate for public office" means any individual who has made a formal announcement of candidacy or qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures with a view to bringing about such person's nomination for election or the

election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch;

(7) "Compensation" means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received;

(8) "Employer of a lobbyist" or "employer" means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. "Employer of a lobbyist" or "employer" specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. "Employer of a lobbyist" or "employer" does not include the individual employees, officers, directors, or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization. For purposes of employer registration and disclosure pursuant to this part, a lobbying firm is not deemed to be the employer of any lobbyist within the firm;

(9) "Executive agency" means any commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch;

(10) "Expenditure" means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure;

(11) "Gift" means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, unless consideration of equal or

greater value is received. "Gift" does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. "Gift" does not include the waiver of a registration fee for a conference or educational seminar;

(12) "Immediate family" means a spouse or minor child living in the household;

(13) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;

(14) "Legislative action" means introduction, sponsorship, debate, voting or any other nonministerial official action or nonaction on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;

(15) "Lobby" means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action. "Lobby" does not mean communications with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held; a duly licensed attorney at law acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a

contested case action, administrative proceeding, or rule making procedure; an editor or working member of the press, radio or television who in the ordinary course of business disseminates news or editorial comment to the general public; or an employee of a department, agency or entity of state, county or municipal government; provided, however, if the department, agency or entity employs, retains or otherwise arranges for lobbyist services by a contractor, subcontractor or other representative, who is not an employee of the department, agency or entity, then "lobby" includes communications by such representative;

(16) "Lobbying firm" means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation;

(17) "Lobbyist" means any person who engages in lobbying for compensation;

(18) "Ministerial action" means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, such person's own judgment upon the propriety of the action being taken;

(19) "Official in the executive branch" means the governor, any member of the governor's staff, any member or employee of a state regulatory commission, including, without limitation, directors of the Tennessee regulatory authority, or any member or employee of any executive department or agency or other state body in the executive branch;

(20) "Official in the legislative branch" means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house thereof who takes legislative action. "Official in the legislative branch" also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of such offices;

(21) "Person" means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons; and

(22) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

**§ 3-6-302.**

(a)

(1) Not later than seven (7) days after becoming an employer of a lobbyist, the employer shall electronically register with the Tennessee ethics commission. Each year thereafter, the employer shall register in the same manner if the employer continues to employ one (1) or more lobbyists.

(2) Not later than seven (7) days after becoming a lobbyist, the lobbyist shall electronically register with the ethics commission. Each year thereafter, the lobbyist shall register in the same manner if the lobbyist continues to engage in lobbying.

(3) Within thirty (30) days after registering, each lobbyist shall provide a current photographic portrait to the ethics commission; however, no lobbyist shall be required to submit more than one (1) such portrait during any year.

(b)

(1) As a component of the registration process, each employer of a lobbyist shall electronically file a registration statement that includes the following information:

(A) Employer's name, business address, and e-mail address; and, in the case of a corporation, association or governmental entity, the names of the individuals performing the functions of chief executive officer and chief financial officer; and

(B) Name, business address, and e-mail address of each lobbyist authorized to represent the employer.

(2) As a component of the registration process, each lobbyist shall electronically file a registration statement that includes the following information:

(A) Lobbyist's name, business address, and e-mail address;

(B) Name, business address, and e-mail address of each employer the lobbyist is authorized to represent;

(C) Subject matters lobbied for such employers during the registration year, to be indicated among general categories listed by the ethics commission;

(D) Legislation actively lobbied for such employers during the registration year by means of direct communication with the governor or any member of the general assembly specifically urging passage, defeat or amendment of the legislation, to be identified by bill or resolution number and to include such other information as may be required by rule of the ethics commission;

(E) Name and business address of any member of the lobbyist's immediate family who is an official within the legislative or executive branch; and

(F) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch.

(c) Throughout the year, by amendment electronically filed with the ethics commission, each employer of a lobbyist and each lobbyist shall update, correct or otherwise modify the employer's or lobbyist's registration statement not later than seven

(7) days following the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

(d) By rule, the ethics commission shall authorize a lobbying firm to file consolidated lobbyist registration, registration statements, and registration amendments on behalf of all partners, associates and employees within the firm; however, the partners, associates and employees of the firm shall be individually named and shall remain individually accountable for the timeliness and accuracy of the consolidated filing.

(e) By rule, the ethics commission shall establish registration fees for employers of lobbyists and registration fees for lobbyists. Notwithstanding any provision of § 3-6-111, or any other law to the contrary, such fees shall not be utilized for any purpose other than defrayal of expenses directly related to lobbying regulation, and the appropriate allocation and usage of such fees shall be annually verified by the comptroller of the treasury. The registration fee shall be paid not later than thirty (30) days following submission of a registration statement or amendment through which an employer reports a lobbyist or additional lobbyist or through which a lobbyist reports an employer or additional employer.

(f) Employer and lobbyist registration statements, as may be amended, shall be promptly posted on the commission's Internet site.

(g) The complete registration year for employers and lobbyists shall be the period from October 1 through September 30.

**§ 3-6-303.**

(a) Within fifteen (15) days following conclusion of the six-month periods ending March 31 and September 30, each employer of a lobbyist shall electronically file with the ethics commission the employer disclosure report. For the six-month period, the report shall disclose the following information:

(1) The aggregate total amount of lobbyist compensation paid by the employer. For purposes of such disclosure, compensation paid to any lobbyist, who performs duties for the employer in addition to lobbying and related activities, shall be apportioned to reflect the lobbyist's time allocated for lobbying and related activities in this state. The aggregate total amount of such lobbyist compensation shall be reported within one (1) of the following ranges:

- (A) Less than \$10,000,
- (B) At least \$10,000 but less than \$25,000,
- (C) At least \$25,000 but less than \$50,000,
- (D) At least \$50,000 but less than \$100,000,
- (E) At least \$100,000 but less than \$150,000,
- (F) At least \$150,000 but less than \$200,000,
- (G) At least \$200,000 but less than \$250,000,
- (H) At least \$250,000 but less than \$300,000,
- (I) At least \$300,000 but less than \$350,000,
- (J) At least \$350,000 but less than \$400,000, or
- (K) \$400,000 or more;

(2) Excluding lobbyist compensation, the aggregate total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, including, but not necessarily limited to, any such expenditures for printing, publishing, advertising, broadcasting, paid announcements, audiotapes, videotapes, compact discs, digital video discs, infomercials, rallies, demonstrations, seminars, lectures, conferences, postage, telephone-related costs, Internet-related services, public relations services, governmental relations services,



polling services, travel expenses, grants to issue groups or grassroots organizations, or any similar expense. For purposes of such disclosure, any such expenditure that is made for the purpose of achieving a multi-state effect shall be apportioned equally among such states. The aggregate total amount of such employer expenditures shall be reported within one (1) of the following ranges:

- (A) Less than \$10,000,
- (B) At least \$10,000 but less than \$25,000,
- (C) At least \$25,000 but less than \$50,000,
- (D) At least \$50,000 but less than \$100,000,
- (E) At least \$100,000 but less than \$150,000,
- (F) At least \$150,000 but less than \$200,000,
- (G) At least \$200,000 but less than \$250,000,
- (H) At least \$250,000 but less than \$300,000,
- (I) At least \$300,000 but less than \$350,000,
- (J) At least \$350,000 but less than \$400,000, or
- (K) \$400,000 or more; and

(3) The aggregate total amount of all employer expenditures for any event permissible under § 3-6-305(b)(8).

(b) Employer disclosure reports shall be promptly posted on the commission's Internet site. Any such posting of an employer's aggregate total expenditures disclosed pursuant to subdivision (a)(3) above, shall be supplemented by the commission with other information, related to such event or events, delivered or reported to the commission pursuant to § 3-6-305(b)(8).

**§ 3-6-304.**

(a) No employer of a lobbyist, lobbyist or any person acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch or to such official's immediate family based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.

(b) No employer of a lobbyist or lobbyist shall knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which such lobbyist is registered to lobby to any official in the legislative or executive branch.

(c) No official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept anything of value in violation of subsection (a).

(d) No lobbyist shall make a loan of money to a candidate for public office, official in the legislative or executive branch, or to anyone on their behalf.

(e) No candidate for public office, official in the legislative or executive branch or a member of such official's staff or immediate family shall solicit or accept a loan in violation of subsection (d).

(f) No employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay or agree to pay a candidate for public office or official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business.

(g) No employer of a lobbyist, lobbyist, or any person acting at the direction of an employer or lobbyist shall permit a candidate for public office, official in the legislative or executive branch or a staff member or a member of the candidate or official's immediate

family to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control.

(h) Except to the extent permissible under §§ 3-6-305(b)(7) or 3-6-305(b)(10), no employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay the lodging expenses of an official in the legislative or executive branch or immediate family of such official.

(i) No employer of a lobbyist or multicandidate political campaign committee controlled by an employer of a lobbyist shall make any campaign contribution to a candidate for the office of governor or member of the general assembly between January 1 and the conclusion of the regular annual legislative session of the general assembly.

(j) No lobbyist, or any person acting on behalf of a lobbyist, shall offer or make any campaign contribution to or on behalf of the governor or any member of the general assembly or any candidate for the office of governor, state senator or state representative.

(k) No lobbyist or any person acting at the direction of a lobbyist, shall organize or host any event to solicit, facilitate or provide campaign contributions for the governor or any member of the general assembly or any candidate for the office of governor, state senator or state representative.

(l) No employer of a lobbyist shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer.

(m) No member of the general assembly, elected official in the executive branch, member of the governor's cabinet, or cabinet level staff within the governor's office shall

be a lobbyist during the twelve-month period immediately following his or her departure from such office or employment.

(n) No lobbyist shall serve as a member of any board, commission or governmental entity of state government having jurisdiction to regulate the business endeavors or professional activities of any employer of the lobbyist; nor shall any lobbyist serve as a member of the state election commission or any county election commission, however, such prohibition does not apply to a lobbyist serving on an election commission, on the effective date of this subsection, as long as the lobbyist continuously serves as a member of that commission.

(o) No official in the legislative or executive branch shall accept travel expenses, meals or lodging paid pursuant to § 2-10-116(a), if payment of such travel expenses, meals or lodging violates any provision of this section or constitutes a prohibited gift under the provisions of § 3-6-305.

**§ 3-6-305.**

(a)

(1) No employer of a lobbyist or a lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or the immediate family of such candidate or official may not solicit or accept directly or indirectly a gift from an employer of a lobbyist or a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or

official, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) Gifts that are given for a nonbusiness purpose and motivated by close personal friendship, but only to the extent such gifts are specifically defined and authorized by the rules of the ethics commission;

(4) Sample merchandise, promotional items, and appreciation tokens, if such merchandise, items and tokens are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided, that any such item shall not be in a form which can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions, except that such discounts may not be based on the status of the candidate or official; and

(B) Prizes and awards given in public contests.

(7)

(A) Expenses for out-of-state travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state government officials, staff of

state government officials or both officials and staff, or any other established and recognized organization which is an umbrella organization for such officials, staff, or both officials and staff;

(B) Entertainment, food, refreshments, meals, beverages, amenities, health screenings, lodging, or admission tickets that are provided in connection with, and are arranged or coordinated through the employees or designated agents of, a conference if the conference is sponsored by an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization which is an umbrella organization for such officials, staff, or both officials and staff;

(8) Entertainment, food, refreshments, meals, beverages, or health screenings that are provided in connection with an in-state event to which invitations are extended to the entire membership of the general assembly; however, a copy of such invitation must be delivered to the ethics commission and to each member of the general assembly at least seven (7) days in advance of the event by the employer or lobbyist paying for the event; provided further, however, within thirty (30) days following the event, such employer or lobbyist must electronically report to the commission the total aggregate cost paid for the event as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty dollars (\$50) per person per day excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of

lobbyists. All such information delivered or reported to the commission shall be promptly posted on the commission's Internet site. By rule, the commission may authorize the filing of a consolidated report if the costs of the event are shared by two (2) or more employers or lobbyists; however, any such report must specify the allocation of the costs among such employers or lobbyists; provided further, however, such employers or lobbyists shall remain individually accountable for the timeliness and accuracy of the consolidated filing;

(9) Entertainment, food, refreshments, meals, amenities, or beverages that are provided in connection with an in-state event at which a candidate for public office, an official in the legislative branch or an official in the executive branch, or an immediate family member of such candidate or official is a speaker or part of a panel discussion at a scheduled meeting of an established and recognized membership organization which has regular meetings; however, the cost of such entertainment, food, refreshments, meals, amenities, or beverages must be paid for or reimbursed by the membership organization and the per person cost of the event which shall not exceed fifty dollars (\$50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists;

(10) Entertainment, food, refreshments, meals, beverages, amenities, health screenings, lodging or admission tickets that are provided by an employer of a lobbyist in connection with an in-state event to which invitations are extended to a member or members of the general assembly; provided that:

(A) The member or members do not receive a per diem allowance pursuant to § 3-1-106, for the day on which the event is held

and the member or members do not receive any entertainment, food, refreshments, meals, beverages, amenities, health screenings, lodging or admission tickets that are provided in connection with the in-state event that are not offered or provided to other nonmembers in attendance at such event;

(B) This exception to the prohibition in subsection (a) extends only to the actual member or members, and their immediate family, invited by the employer of the lobbyist;

(C) No lobbyist, who is authorized to represent the employer or employers paying for the event, shall be permitted to organize, host, attend or otherwise participate in the event; and

(D) Within thirty (30) days, the employer or employers paying for the event must electronically report to the ethics commission the total aggregate cost of the event as well as the per person cost of the event if the per person cost exceeded fifty dollars (\$50.00), excluding sales tax and gratuity; provided, however, that the value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists; or

(11) Occasional or incidental local travel for which no fare is ordinarily charged.

(c) If an official in the legislative or executive branch attends an event and accepts a gift that is provided by a person or entity not subject to the prohibition set forth in § 3-6-305(a); and if a lobbyist also attends such event and knows or has reason to know that the gift has been provided at the suggestion or direction of the lobbyist; then,



within seven (7) days following the event, the lobbyist shall electronically report the following information to the ethics commission:

- (1) Name of the official or family member;
- (2) Nature and purpose of the event;
- (3) Name, address and business of the person or entity that provided the gift;
- (4) Description of the gift; and
- (5) Cost of the gift; however, if the cost of the gift is unknown and not reasonably discernible by the lobbyist, then the lobbyist shall report a good faith estimate of the cost of the gift.

(d) A gift made contrary to this section shall not be a violation of this section if the candidate, official or immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation.

**§ 3-6-306.**

(a) Notwithstanding the provisions of any law to the contrary,

(1) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if an employer of a lobbyist:

- (A) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the employer's registration statement;
- (B) Fails, without good cause, to timely pay a registration fee;
- (C) Fails, without good cause, to timely file the employer disclosure report;

(D) Provides information to the commission knowing or having reason to know that such information is inaccurate or incomplete;

(E) Utilizes the services of a lobbyist knowing or having reason to know that the lobbyist has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or

(F) Knowingly violates any provision of §§ 3-6-304 or 3-6-305.

(2) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if a lobbyist:

(A) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the lobbyist's registration statement;

(B) Fails, without good cause, to timely pay a registration fee;

(C) Provides information to the commission knowing or having reason to know that such information is inaccurate or incomplete;

(D) Engages in lobbying on behalf of an employer knowing or having reason to know that the employer has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or

(E) Knowingly violates any provision of §§ 3-6-304 or 3-6-305.

(3) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if any candidate for public office, official in the legislative or executive branch, or an immediate family member of such candidate or official knowingly violates any provision of §§ 3-6-304 or 3-6-305. Additionally, if the commission determines that an egregious violation of either such section has been committed by a member of the general assembly,

then it may report its findings and actions to the ethics committee of the appropriate house of the general assembly.

(b) Notwithstanding the provisions of any law to the contrary, the ethics commission may administratively place on probationary status, suspend, reject, or revoke the registration of any lobbyist who knowingly and persistently violates the provisions of this part. As used in this subsection, "persistently" means three (3) or more occasions during the two-year period of any general assembly.

(c) On its Internet site, the ethics commission shall promptly post the names of all employers and lobbyists who are:

- (1) Delinquent in filing registration, registration statements or amendments thereto;
- (2) Delinquent in filing disclosure reports;
- (3) Delinquent in paying registration fees or civil penalties; or
- (4) Found to have committed any other violation of this part.

Additionally, the commission shall post the names of all lobbyists having expired, probationary, suspended, rejected, or revoked registration. The commission shall also post the names of any other person found to have knowingly violated any provision of §§ 3-6-304 or 3-6-305.

(d) An intentional violation of this part constitutes a criminal offense and is punishable as a Class C misdemeanor for the first offense, as a Class B misdemeanor for the second offense, and as a Class A misdemeanor for the third and subsequent offenses.

(e) In the chancery court of Davidson County, the ethics commission may seek injunctive relief to prevent any employer of a lobbyist, lobbyist, candidate for public

office, official in the legislative or executive branch, or the immediate family of such candidate or official from engaging in any continuing violation of this part.

(f) It is a Class B misdemeanor for any person to file with the ethics commission a sworn complaint, alleging a violation of this part, which is known to be false.

**§ 3-6-307.**

Any lobbyist who receives as compensation only reimbursement for actual out-of-pocket personal expenses shall comply with all lobbyist requirements imposed pursuant to this part but shall be exempt from payment of the occupational privilege tax on lobbyists imposed by § 67-4-1702(a)(1). For purposes of this subsection, "out-of-pocket personal expenses" include such things as the lobbyist registration fee, legislative information services material, copying expenses, transportation, parking fees and food incurred while actually engaging in lobbying. Transportation, parking fees, and food shall be limited to the expenses allowed for such items in the comprehensive state travel regulations. No such reimbursed expenses shall be for the benefit of any public official except for informational materials delivered to public officials.

**§ 3-6-308.**

(a) The provisions of this part shall be administered and enforced by the ethics commission. To such end, it is the duty of the ethics commission to:

(1) Develop, with the advice, assistance and approval of the office of information resources, and prescribe electronic forms for registration, registration statements, amendments to registration statements, disclosure reports and other information required to be reported pursuant to this part;

(2) Preserve such registration, registration statements, amendments to registration statements, disclosure reports and other filed information for a period of at least five (5) years, or longer when there is a pending investigation by the

commission or any law enforcement agency or when there is an ongoing administrative or judicial proceeding related to any such registration, statements, amendments, reports or information;

(3) Develop a filing, coding and cross-indexing system consonant with the purposes of this part;

(4) Issue, and publish, upon proper request from any employer or lobbyist or public official, advisory opinions concerning the requirements of this part;

(5) Accept the electronic filing of any pertinent information voluntarily supplied that exceeds the requirements of this part;

(6) Review electronic filings submitted pursuant to this part to ensure compliance with the laws administered and enforced by the ethics commission. Filings older than two (2) years shall be deemed to be sufficient, absent a showing of fraud;

(7) Audit each year the registration statements, amendments to registration statements and reports of at least two percent (2%) of all employers of lobbyists and at least two percent (2%) of all lobbyists. The attorney general and reporter, or the attorney general's designee, shall attend the random selection proceeding in order to preserve the integrity of such proceeding;

(8) Compile and publish, on the commission's Internet site, the following reports listing:

(A) All registered employers, alphabetically;

(B) All registered lobbyists, alphabetically;

(C) Each subject matter category specified by the ethics

commission for purposes of § 3-6-302(b)(2)(C), with each lobbyist listed

thereunder who lobbied such subject matter category during the registration year; and

(D) Each bill or resolution for which any lobbyist indicated interest for purposes of § 3-6-302(b)(2)(D), with each lobbyist listed thereunder who lobbied such bill or resolution during the registration year.

The ethics commission may prepare and publish on its Internet site such other reports as are deemed to be appropriate and in the public interest;

(9) Promulgate any rules and regulations as may be appropriate for the administration of this part; provided, that such rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; and

(10) Impose civil penalties and other administrative sanctions in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the ethics commission upon request of the executive director.

(c) Notwithstanding the provisions of any law to the contrary, audit and investigatory information shall be confidential and shall be maintained, as such, by the members and employees of the ethics commission and by the officers and employees of the state in the manner and to the extent that the confidentiality of tax information is maintained by the officers and employees of the department of revenue and the state under the provisions of title 67, chapter 1, part 17.

#### **§ 3-6-309.**

The provisions of this part do not regulate lobbying that seeks to influence decision making by municipal or county officials and employees. It is the preference and

intent of the general assembly that proposed legislation to locally regulate such lobbying activities should be developed by the various municipalities and counties acting in concert and should be presented in the form of proposed general legislation for consideration at the next regular session of the general assembly. In the absence of such a proposal, it is the intent of the general assembly to independently develop and enact legislation to regulate lobbying of municipal and county officials and employees.

SECTION 34. Tennessee Code Annotated, Title 8, Chapter 50, Part 5, is amended by deleting the language “registry of election finance” wherever it may appear and by substituting instead the language “Tennessee ethics commission” and is further amended by deleting the language “registry” and by substituting instead the language “commission”.

SECTION 35. Tennessee Code Annotated, Section 8-50-501(a), is amended by deleting subdivisions (16) and (17) and by substituting instead the following language:

(16) The president of the University of Tennessee, and the chancellor of each separate branch or campus of the University of Tennessee;

(17) Members of the registry of election finance;

(18) Members of the Tennessee ethics commission; and

(19) Each candidate or appointee to a local public office as defined in § 2-10-102(13)(A).

SECTION 36. Tennessee Code Annotated, Section 8-50-501, is amended by deleting subsections (b) and (c) in their entirety and by substituting instead the following language:

(b) A candidate for any of the offices in subsection (a) which are elective shall file a disclosure statement no later than thirty (30) days after the last day provided by law for qualifying as a candidate. An appointee to any of the offices listed in subsection (a) shall file a disclosure statement within thirty (30) days from the date of appointment. The

appointing authority shall notify the commission of any such appointment within three (3) days of the appointment.

(c) Any candidate or appointee who is running for reelection or is reappointed to the same office or position the candidate or appointee currently holds shall not be required to file the statement required by subsection (b) as long as such candidate or appointee is in compliance with §§ 8-50-503 and 8-50-504.

SECTION 37. Tennessee Code Annotated, Section 8-50-505, is amended by deleting the section in its entirety and by substituting instead the following language:

**§ 8-50-505.**

(a) The Tennessee ethics commission has the jurisdiction to administer and enforce the provisions of this part concerning disclosure statements of conflicts of interests. This enforcement power includes the full range of powers and penalties and procedures established in this act.

(b) It is the intent of the general assembly that the sanctions provided in this section are the civil penalties enacted into law by the section designated Section 3-6-205 in Section 25 of this act.

SECTION 38. Tennessee Code Annotated, Title 3, Chapter 1, Part 1, is amended by adding the following language as a new, appropriately designated section:

**§ 3-1-118.**

(a) Every meeting of the general assembly, senate, house of representatives, or any joint committee, standing committee, statutory committee, special committee, select committee, oversight committee, ad hoc committee, any other committee or any subcommittee shall be open to the public. Only when considering a matter involving the security of the state or nation or when investigating a proposed Article V impeachment of a public official other than a member of the general assembly, may a meeting be closed



to the public, but only if there is an affirmative vote of at least three fourths (3/4) of the members present. Adequate public notice of every meeting must be provided. The term "meeting" means at least a quorum of the members of a subcommittee, committee, the senate, the house of representatives, or the general assembly is present and public business is deliberated or decided.

(b) Any citizen of the state may file a complaint with the ethics commission alleging a violation of subsection (a). Upon determining that probable cause exists to believe that such violation occurred, the commission shall refer the matter to the senate or house of representatives for appropriate action.

(c) The 104th general assembly must recognize that the appellate courts of Tennessee, in specifically considering the open meetings law, have unequivocally ruled that Article II, Section 12 of the Constitution of the State of Tennessee prevents this or any other general assembly from statutorily binding a future general assembly on rules of proceedings. Therefore, this general assembly must truthfully acknowledge that the provisions of this section can be legally binding only for the duration of the 104th general assembly. However, each future general assembly is strongly encouraged and vigorously urged to adopt rules incorporating provisions no less open than subsection (a).

SECTION 39. Tennessee Code Annotated, Section 3-1-106, is amended by adding the following language as a new, appropriately designated subsection:

(\_) In order to make the expense and mileage information of the members of the general assembly more accessible to the public, the office of management information systems shall post appropriate contact information for the director of the office of legislative administration on the general assembly web site. The office of management information systems shall also post descriptive information approved by the joint

legislative services committee indicating the procedure that should be followed to obtain a member's expense and mileage information. A link to such information shall be posted on the home page of the general assembly web site.

SECTION 40. Tennessee Code Annotated, Title 3, Chapter 1, is amended by adding the following language as a new, appropriately designated section:

**3-1-1\_\_.**

(a) Each caucus of the general assembly shall make a full disclosure of the sources of contributions received and expenditures made by submitting statements to the registry of election finance within ten (10) days following the conclusion of the quarterly periods ending March 31, June 30, September 30, and December 31. A statement filed pursuant to this section shall consist of either:

(1) A statement that neither the contributions received nor the expenditures made during the period for which the statement is submitted exceeded one thousand dollars (\$1,000). Any statement filed pursuant to this section shall indicate whether an unexpended balance of contributions, continuing debts and obligations or an expenditure deficit exists; or

(2)

(A) A statement setting forth under contributions, a list of all the contributions received including the full name, complete address, occupation, and employer of each person who contributed a total amount of more than one hundred dollars (\$100) during the period for which the statement is submitted, and the amount contributed by that person. The statement shall include the date of the receipt of each contribution. "Date of the receipt", as used in this subdivision, means the date when the contribution was received by the caucus. The statement shall list as a

single item the total amount of contributions of one hundred dollars (\$100) or less; and

(B) A statement setting forth under expenditures, a list of all expenditures made including the full name and address of each person to whom a total amount of more than one hundred dollars (\$100) was paid during the period for which the statement is submitted, the total amount paid to that person, and the purpose of such expenditure. The words "reimbursement", "credit card purchase", "other" and "campaign expense" shall not be considered acceptable descriptions for "purpose". Any purchase made with a credit card shall also be disclosed as a payment to the vendor providing the item or service. Credit card payments to separate vendors shall be disclosed as separate expenditures. The statement shall list the total amount of expenditures of one hundred dollars (\$100) or less each, by category, without showing the exact amount of or vouching for each such expenditure.

(b) Each caucus of the general assembly shall maintain its records and financial accounts in conformity with generally accepted accounting principles, shall retain such records for a period of at least five (5) years after the close of the appropriate fiscal year, and shall make such records available for audit and review by the state upon request of the comptroller of the treasury or the comptroller's designated representative.

(c) For purposes of this section, "caucus" means any association whose majority membership consists of members of the general assembly that seeks to pursue, promote or support a common interest including, but not limited to, a political party. "Caucus" does not include any standing, special, select, ad hoc, or statutory subcommittee or committee of the general assembly.

SECTION 41. Tennessee Code Annotated, Section 39-16-103, is amended by designating the existing language of the section as subsection (a) and by adding the following new subsections (b) and (c):

(b) Any person who is convicted after the effective date of this act of an offense in another state or under federal law that would constitute a violation of § 39-16-102 if committed in this state shall be, from the date of such conviction, forever disqualified from holding any office under the laws or constitution of this state.

(c) If at the time of conviction for an offense specified in this section, the person still holds an office under the laws or constitution of this state, the provisions of this section shall apply to such person at the end of the person's term of office unless otherwise removed or expelled as provided by law prior to that time.

SECTION 42. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 43. For purposes of promulgation of rules and regulations, imposition of civil and other penalties, creation and publication of forms, acquisition or development of software programs and other necessary computer hardware, and organization and hiring of staff, the provisions of this act shall take effect upon becoming a law, the public welfare requiring it.

SECTIONS 1 through 23 shall take effect upon becoming law, the public welfare requiring it.

SECTION 24, for purposes of appointing the members of the ethics commission, shall take effect upon becoming law, the public welfare requiring it. SECTION 25 shall take effect October 1, 2006. Within SECTION 33, §§ 3-6-301 through 3-6-303 and §§ 3-6-306 through 3-6-309, shall take effect October 1, 2006. Within SECTION 33, §§ 3-6-304 and 3-6-305, shall take effect on becoming law, the public welfare requiring it; and, notwithstanding any provision of this

act or any other law to the contrary, from such effective date through September 30, 2006, the registry of election finance shall implement and enforce §§ 3-6-304 and 3-6-305, in the same manner and to the same extent that the ethics commission is authorized to implement and enforce such provisions on and after October 1, 2006. SECTIONS 34 through 37 shall take effect October 1, 2006. SECTIONS 38 and 39 shall take effect on becoming law, the public welfare requiring it. For all other purposes, Section 33 shall take effect October 1, 2006 and all remaining provisions of this act shall take effect on July 1, 2006, the public welfare requiring it.